

OCT 31 2011

JULIA C. DUFFLEY, CLERK
BY: 
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

3. The government's motion to dismiss (Docket No. 108) is **DENIED**;
3. The judgment order in Kelsey's Criminal Case No. 5:09cr00025-1 (Docket No. 97) is **VACATED**;
4. The Clerk of the Court shall **PREPARE** and **ENTER** a new Judgment Order in Case No. 5:09cr00025-1, in every respect the same as the previous Order, except as to date of entry;
5. Upon entry of the new Judgment Order, the Clerk of the Court shall **ENTER** a notice of appeal on behalf of Kelsey¹;
6. Kelsey's ineffective assistance of counsel claim concerning jury instructions is **DISMISSED without prejudice**²; and
7. This matter is